



ELECTION NEWS

A special informational bulletin
on the implementation of
Michigan election law.

Michigan Department of State - Terri Lynn Land, Secretary of State

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With the August 5 primary rapidly approaching, this edition of *Election News* offers a number of reminders and points of information regarding the administration of the primary. The following topics are covered:

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Michigan's Absentee Voting Process: Critical Points to Remember
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To protect and enhance the integrity of Michigan's absentee voting process, all election officials are required to observe the legal requirements, practices and policies detailed below:

Eligibility: A registered voter is eligible to obtain an absent voter ballot for an upcoming election if he or she: 1) is 60 years of age or more 2) is unable to vote without assistance 3) expects to be absent from his or her city or township of residence for the entire time the polls are open 4) is in jail awaiting arraignment or trial 5) has been appointed to work as an election inspector in a precinct outside of his or her precinct of residence or 6) is unable to attend the polls due to his or her religious beliefs.

Eligibility restriction: A person who registers to vote by mail must vote in person in the first election in which he or she participates. The restriction does not apply to overseas voters, voters who are handicapped or voters who are 60 years of age or older.

Application process: A voter who wishes to receive an absentee ballot must request it in writing from the clerk; absentee ballots may not be delivered as a result of an oral request made in person or over the phone. However, an absent voter ballot application form may be provided as a result of an oral request.

The written request may be on a form supplied by the clerk or other election official, in a letter or on a postcard. The written request must include a statutory reason why the voter is eligible to receive an absentee ballot and the applicant's signature.

Mass mailing absent voter ballot application forms to voters: Michigan election law does not permit a city or township clerk to mail absent voter ballot applications without having received a verbal or written request. While a city or township clerk may mass mail absent voter ballot applications to voters in advance of an election, everyone on the mass mail list had to have asked to be placed on the list. When requesting to be placed on the mass mail list, a voter can ask to receive an absent voter ballot application for **all** upcoming elections if that is their preference as the law does not limit requests for the application forms to a specific time period.

County clerks have no authority to distribute absent voter ballot applications unless the county clerk is acting in the role of school election coordinator. The same standards detailed above for the mass mailing of absent voter ballot applications apply to county clerks as they perform their school election coordinator role.

Absentee ballot application submission timeframes: Absent voter ballot requests may be submitted anytime after the 75th day preceding the election. (Absent voter ballot requests submitted prior to the 75th day preceding the election may be retained on file for later processing.) The 75-day absent voter ballot request submission restriction does not apply to absent voter ballot requests submitted for federal elections by absent uniformed services voters.

A voter who applies for an absent voter ballot for a primary may, at the same time, request an absent voter ballot for the following general election if he or she is eligible to receive an absent voter ballot for both elections.

If the ballot must be issued by mail, the application for the ballot must reach the clerk no later than 2:00 p.m. on the Saturday prior to the election.

Absent voter ballots can be requested by voters in person anytime up to 4:00 p.m. on the day prior to the election. A voter who visits his or her clerk's office on the day prior to the election to obtain an absent voter ballot must vote the ballot in the clerk's office; the voter is not permitted to leave the clerk's office with the ballot.

The law also provides for the issuance of "emergency" absent voter ballots on the day of the election. The emergency absentee voting process is explained below.

Office hours on Saturday preceding election: The clerk or other authorized personnel appointed by the clerk must be available in the clerk's office on the Saturday preceding the election until 2:00 p.m. -- the deadline for requesting an absentee ballot which must be mailed.

Restrictions on possession of signed absent voter ballot applications: The persons who may be in lawful possession of a signed absent voter ballot request are limited to 1) the applicant 2) a member of the applicant's immediate family 3) a person residing in the applicant's household 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) 5) a registered elector asked to handle the application by the applicant and 6) an authorized election official.

A registered elector who returns an absentee ballot application at the request of the applicant must sign the following certificate which appears on the application form:

CERTIFICATE OF AUTHORIZED REGISTERED ELECTOR RETURNING ABSENT VOTER BALLOT APPLICATION	
I certify that my name is _____, my address is _____, and my date of birth is _____; that I am delivering the absent voter ballot application of _____ at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.	
_____ Date	_____ Signature

Application verification requirement: Upon the receipt of a completed absent voter ballot application, the signature appearing on the application must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

Issuance of absentee ballots: A request for an absentee ballot must be processed immediately. It is recommended that the ballot be issued within 24 hours of the receipt of the application. Applications should be processed in the order they are received. This will avoid criticism that certain voters are being given preferential treatment. (While absentee ballots must be issued in the same order in which they are requested, an election official is not prohibited from issuing an absentee ballot to a voter applying in person despite the fact that there may be applications on file which have not yet been honored.)

An absentee voter can receive an absent voter ballot at his or her registration address, at any address outside of his or her jurisdiction of residence or at a hospital, nursing home or similar institution. Also, a clerk may mail an absent voter ballot, upon the request of the voter, to a post office box if the post office box is where the voter normally receives mail and the absent voter

does not receive mail at his or her registration address. An absentee voter **cannot** receive an absent voter ballot at any residential address within his or her jurisdiction of registration other than his or her registration address.

Campaign brochures or any other type of unauthorized materials may not be distributed with absentee ballots.

In every case, a requested absentee ballot must be transmitted to the applicant by mail if there is an adequate amount of time for the voter to receive the ballot by mail, vote the ballot and return the ballot prior to 8:00 p.m. on the date of the election. **To avoid any appearance of impropriety, absentee ballots should not be delivered by hand unless the hand delivery of the ballot is necessary to ensure the timely return of the ballot.**

Absentee voters who receive assistance: If the absentee voter receives assistance from another person when voting the ballot, the individual who provided the assistance must sign the certificate shown below. The certificate appears on the outside of the ballot return envelope.

The certificate must be signed by any person who assists an absentee voter vote his or her ballot including the voter's spouse, a household member who lives with the voter, an election official or an individual employed as an election assistant.

**TO BE COMPLETED ONLY IF VOTER IS
ASSISTED IN VOTING BY ANOTHER PERSON**

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in accordance with his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter

Printed Name of Person Assisting Voter

Street Address or R.R.

City, Twp., or Village

Return of absentee ballots: Absentee ballots must be returned to the clerk by 8:00 p.m. on election day. On the day of the election, the clerk must make arrangements with the post office to pick up any absent voter ballots which are received by the post office after the post office has made its final mail delivery of the day to the clerk's office. (The time of the final check should be coordinated with the post office to ensure that the check is made after the post office receives its last mail delivery of the day.)

The persons who may return an absentee ballot are limited to 1) the voter 2) a member of the voter's immediate family who has been asked to return the ballot 3) a person residing in the voter's household who has been asked to return the ballot 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) and 5) an authorized election official.

Given the above restrictions, it merits emphasis that an absentee voter is not permitted to ask another voter who is not a member of the voter's immediate family or household to return his or her absentee ballot.

Ballot pick-up by election official: An election official is **required** to pick up a voter's absentee ballot if **all** of the following conditions are satisfied: 1) the election official issued the ballot to the voter 2) the voter is unable to return the ballot under any of the authorized delivery methods 3) the voter calls to request the pick up of his or her ballot before 5:00 p.m. on the Friday immediately preceding the election and 4) it is not necessary for the election official to travel outside of the jurisdiction to obtain the ballot. Under any other circumstances, an election official (or authorized assistant) may pick up a voter's absentee ballot at **the election official's discretion** if 1) the election official issued the ballot to the voter and 2) the voter is unable to return the ballot under any of the authorized delivery methods.

Election assistants authorized to pick up absentee ballots must carry appropriate credentials and show them when asked.

An election official should not pick up a voter's absentee ballot unless the voter requests the pick up. **In no case should an election official or a person working as an election assistant contact an absentee voter in person or by phone to offer to return the voter's ballot.**

Ballot verification requirement: A voter who has obtained an absentee ballot must sign the following certificate which appears on the return envelope prior to returning the ballot to the clerk

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person. I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

Date

Signature of Absent Voter

Upon the receipt of a returned absentee ballot, the signature appearing on the above certificate must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

If the voter fails to sign the certificate, the ballot is void and cannot be removed from the envelope or counted.

Deceased absentee voter: If it comes to the attention of a local election official or a precinct board that a voter who returned an absentee ballot has died, the ballot must be rejected. In such an instance, the election official or precinct board writes "rejected as illegal" on the return envelope. Absentee ballots which are "rejected as illegal" cannot be removed from their return envelopes.

Emergency absentee ballot requests: An elector may make an "emergency" request for an absentee ballot if he or she cannot attend the polls because of 1) personal disablement or 2) a family death or illness which will require that the elector leave the community for the entire time the polls are open on election day.

"Emergency" requests for absentee ballots must be made after the deadline for making "regular" requests for absentee ballots (2:00 p.m. on the Saturday before the election) and before 4:00 p.m. on election day. The emergency must have occurred at a time which made it impossible for the voter to apply for an absentee ballot by the statutory deadline for "regular" applications.

If an "emergency" absentee ballot is requested, the person making the application may authorize the person delivering the application to pick up and deliver the ballot. The authorization to pick up and deliver the ballot must be in writing and must be signed by the applicant. An "emergency" absentee ballot may also be delivered by hand to the applicant by a person authorized to handle this task.

Penalties: Michigan election law provides the following penalties related to Michigan's absentee voting process:

- A person who forges a signature on an absentee ballot application is guilty of a felony.
- An unauthorized person who both distributes absentee ballot applications to absent voters and returns those absentee ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.
- A person, other than an authorized election official, who gives, lends or promises any valuable consideration to or for a person to induce that person to both distribute absentee ballot applications and receive signed absent voter ballot applications from voters for delivery to the clerk is guilty of a misdemeanor.
- A person who is present while a voter is voting an absent voter ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who suggests how the voter

should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.

- A person who assists an absentee voter mark his or her ballot who permits any other person to suggest how the voter should vote or permits any other person to attempt to influence the voter on how he or she should vote is guilty of a felony.
- A person in illegal possession of an absentee ballot (voted or unvoted) is guilty of a felony.
- An unauthorized person who returns, solicits to return or agrees to return an absentee ballot is guilty of a felony.
- A person who assists an absentee voter who falsifies the statement which must be signed by such assistants is guilty of a felony.
- A person who plans or organizes a meeting at which absentee ballots are to be voted is guilty of a felony.

Handling Federal Post Card Application (FPCA) Forms
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FPCA forms submitted for the 2006 election cycle must be honored for the 2008 election cycle. See below for further information.

- The Federal Post Card Application (FPCA) is a postage-free absent voter ballot application produced and distributed by the federal government. The following persons are eligible to use an FPCA to request an absent voter ballot:
 - 1.) Members of the Armed Forces and their spouses and dependents.
 - 2.) Members of the Merchant Marine and their spouses and dependents.
 - 3.) U.S. citizens temporarily living or traveling outside of the territorial limits of the United States.
- A person who is eligible to use an FPCA to obtain an absent voter ballot may register up to 8:00 p.m. on the day of the election; the 30-day registration deadline is waived. If an individual submitting an FPCA is not registered to vote, the FPCA can be accepted as the voter's registration application.
- An FPCA may be used by one person only; if a husband and wife or several family members who are eligible to use an FPCA wish to obtain absent voter ballots, each must complete a separate FPCA form.

- The Help America Vote Act (HAVA) prohibits the imposition of any restriction on the early submission of absentee ballot requests for federal elections by absent uniformed services voters. As a consequence, city and township clerks are not permitted to reject absent voter ballot requests submitted for federal elections by absent uniformed services voters more than 75 days prior to the election.
- HAVA requires local election officials to provide return notification in any instance where a voter registration application or absent voter ballot application submitted by an absent uniformed services voter or an overseas voter is rejected. The notification can be issued by any convenient means (letter, fax or email).
- An overseas uniformed services voter, a domestic uniformed services voter or an overseas civilian voter who submitted a Federal Post Card Application form (FPCA) for a federal election conducted in 2006 is automatically eligible to receive an absent voter ballot for the August 5, 2008 primary and November 4, 2008 general election. This means that all valid FPCA forms which you received anytime after the November 2, 2004 general election must be honored for the upcoming August 5 primary and November 4 general election. This timeframe is tied to the fact that an FPCA form must be honored for every federal election which is conducted “through the next 2 regularly scheduled general elections for federal office.”
- HAVA required the Federal Voting Assistance Program office to prescribe a “standard oath” for use with any document submitted by voters under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The standard oath prescribed by the Federal Voting Assistance Program Office must be used in place of the oath prescribed under Michigan election law when sending an absent voter ballot to an absent uniformed services voter or overseas voter. The wording of the oath is provided below. The oath can be placed on the absent voter ballot return envelope with a sticker if necessary.

I swear or affirm under penalty of perjury, that I am:

1. A member of the Uniformed Services or merchant marine on active duty; or an eligible spouse or dependent of such a member; or, a U.S. citizen temporarily residing outside the U.S.; or, other U.S. citizen residing outside the U.S.; and
2. I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; and
3. I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and
4. I am not registered, requesting a ballot, or voting in any other jurisdiction in the U.S., except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under State or Federal law. I have not been influenced.

My signature and date below indicate when I completed this document.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction of perjury.

Signed:_____ Date:_____
Month/Day/Year

Obtaining Updated Mailing Addresses for Active Duty Military Voters

Updated mailing addresses for active duty military voters can be obtained by contacting the Federal Voting Assistance Program (FVAP) office in Washington, D.C. Seeking such information is essential anytime there is a question over a military voter's current address or in any instance where an absent voter ballot mailed to a military voter is returned as "undeliverable."

To seek such assistance, fax or email the military voter's full name, birth date, Social Security Number (if available) and any addressing information on file for the voter to the FVAP office. Fax number: (703) 696-1352. Email: vote@fvap.ncr.gov

Appointing Precinct Inspectors

- An election inspector must be a registered voter of the county in which he or she is appointed to serve. To accommodate jurisdictions that cross county boundaries, Michigan election law provides that an individual registered to vote in a local unit of government that falls in more than one county may be appointed to serve on any precinct board established within the local unit of government.
- Election inspector appointments must be handled by the local board of election commissioners at least 21 days but not more than 40 days before each election. The appointments cannot be made less than five days before the date set for holding an election inspector instructional session. A city or township that is not handling its election inspector appointments through its election commission is advised to take immediate action to bring its appointment procedures into compliance with the law.
- Not later than 2 business days following the appointment of election inspectors for an election scheduled to nominate or elect candidates to a federal or state office, the election commission is required to notify the county chair of each major political party of the "names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed." The notification must be made by "certified mail, personal service, or electronic transmission capable of determining date of receipt."
- At least three election inspectors must be appointed to serve in each precinct; additional inspectors must be appointed if needed to properly conduct the election. The election commission must designate one of the election inspectors appointed to each board as "chairperson" of the board. The first three inspectors appointed to serve on a precinct board must be 18 years of age or older; any additional precinct inspectors appointed to the board may be 16 or 17 years of age. A precinct inspector appointee must be at least 18 years of age to serve as the chairperson of the precinct board.
- The election commission is required to appoint "at least 1 election inspector for each major political party." In addition, the election commission is required to politically balance each precinct board "as nearly as possible." A "major political party" is defined as "each of the 2 political parties whose candidates for the office of secretary of state received the highest and second highest number of votes at the immediately preceding general election in which a secretary of state was elected." (Current "major political parties" are the Republican Party and the Democratic Party.) The election commission may appoint election inspector applicants who have expressed a preference for a minor political party at its discretion.

- The election commission is prohibited from knowingly appointing an individual to serve as an election inspector if the person has been convicted of a felony or election crime or if any member of the person's "immediate family" is a candidate for nomination or election to any office at the election. ("Immediate family" is defined as the individual's father, mother, son, daughter, brother, sister, spouse and any relative residing in the same household with that person.) As an exception, a precinct delegate candidate may serve as an election inspector in any precinct other than the precinct in which he or she resides.
- An election commission is further prohibited from appointing a person as an election inspector "if that person declares a political party preference for a political party but is a known active advocate of another political party. A "known active advocate" of another political party is defined to mean a person who 1) is a delegate to the convention or an officer of another party 2) is affiliated with another party through an elected or appointed government position or 3) has made documented public statements (i.e., "statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant") specifically supporting by name another political party or its candidates in the same calendar year as the election for which the appointment is being made.

<p>Declaration of Intent Requirement</p>

An individual who wishes to seek nomination or election to an office appearing on the August 5, 2008 primary ballot with write-in votes must file a "Declaration of Intent" with the filing official for the office no later than 4:00 p.m. on Friday, July 25, 2008.

As an exception to the above, an individual who wishes to seek a precinct delegate position with write-in votes may file a Declaration of Intent with his or her city or township clerk by 4:00 p.m. on Friday, August 1, 2008. As an alternative, an individual who wishes to seek a precinct delegate position with write-in votes may file a Declaration of Intent with his or her board of election inspectors on August 5 anytime prior to the close of the polls.

- The city or township clerk is responsible for notifying the appropriate precinct boards of any Declaration of Intent forms submitted by write-in candidates before the election. The names of the declared write-in candidates must be delivered to the precinct boards no later than the close of the polls. A list of the write-in candidates' names or photocopies of the Declaration of Intent forms can be used to notify the precinct boards of the declared write-in candidates. (If a list is used, it must include the office each write-in candidate is seeking and the candidate's party affiliation if the candidate is seeking nomination to a partisan office appearing on the primary ballot.)
- As a candidate who wishes to seek a precinct delegate position with write-in votes is permitted to file a Declaration of Intent at the polls on August 5, all precinct boards must be supplied with a quantity of blank Declaration of Intent forms. The precinct boards should be prepared to distribute the form to anyone who indicates a desire to seek a precinct delegate

position with write-in votes. After the individual completes the form, the precinct board member handling the transaction should sign the form at the bottom and supply a copy of the form to the candidate as a receipt; an oath is not required. The precinct board must carefully maintain any Declaration of Intent forms submitted by precinct delegate candidates at the polls on the day of the August primary and take them into consideration when tallying the write-in votes cast at the election. The forms must be delivered to the city or township clerk with the precinct's supplies at the end of the day.

- It merits emphasis that individuals who wish to seek precinct delegate positions with write-in votes are the only write-in candidates who are permitted to file a Declaration of Intent form at the polls; this opportunity is not extended to any other write-in candidates.

Documenting and Canvassing Write-In Votes

- A write-in vote cast for an individual who has not filed a Declaration of Intent does not count and must not be recorded by the precinct board. Similarly, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the office for which the write-in vote was cast corresponds to the office identified on the Declaration of Intent; if a partisan primary, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the office and party correspond. Write-in votes which do not count for the above reasons are not considered when determining whether an “over vote” has occurred or whether a “crossover” vote has been cast at a partisan primary.

As an exception, the Declaration of Intent requirement is waived if a candidate appearing on the ballot for the office involved dies or is otherwise disqualified on or after the Wednesday immediately preceding the election. If the waiver is invoked, all write-in votes cast for the office must be counted including any write-in votes cast for candidates who have not filed a Declaration of Intent. (The waiver does not apply to precinct delegate positions.)

- Write-in votes which show name variations and spellings which do not match the Declaration of Intent form are acceptable. It merits note that it is the precinct board's responsibility to record all valid write-in votes exactly as they were cast preserving any name variations and/or misspellings which may appear.

Example: John A. Smith - State Representative - Democrat - 16 votes.
Jon Smith - State Representative - Democrat - 2 votes.
J.A. Smith - State Representative - Democrat - 1 vote.

- It is the Board of County Canvassers' responsibility to review all write-in votes and determine how they are to be counted. The Board may accept variations in the spelling of a write-in candidate's name if the manner in which the voter intended his or her vote to be cast is clear.

- A write-in candidate seeking nomination to a partisan office on the August 5 primary ballot is nominated if he or she 1) receives more votes than any other candidate seeking the position and 2) meets a vote threshold formula provided under Michigan election law, MCL 168.582. Under the vote threshold formula, the number of votes received by the write-in candidate must equal the greater of the following:
 - 1) 10 votes.
 - 2) .15 of 1% (.0015) of the total population, as reflected by the last official federal census, of the district represented by the office sought by the write-in candidate.
 - 3) **Apply following only if write-in candidate seeks nomination to an office for which only one candidate is to be elected:** 5% (.05) of the greatest number of votes cast under the write-in candidate's party for all candidates running for any office within the district represented by the office sought by the write-in candidate.
 - 4) **Apply following only if write-in candidate seeks nomination to an office for which more than one candidate is to be elected:** 5% (.05) of the greatest number of votes cast under either party on the ballot for any candidate seeking the same office sought by the write-in candidate.

Election Resources Available on Department's Website

A wide variety of election related information and materials can be accessed through the Department's website www.michigan.gov/sos. To locate, click on "Elections in Michigan"; on the Elections in Michigan page, click on "Information for Election Administrators." The information and materials currently available on the website include the following:

- Michigan election law.
- August 5, 2008 Voter Information Poster.
- August/November election date calendar.
- Provisional balloting implementation materials.
- Election inspector training materials.
- Michigan voter identification requirement implementation materials.
- AutoMARK implementation materials.
- Archives of previous issues of *Election News* and *News You Can Use*.

Have a Question or Need Assistance?
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If you have a question or need assistance with your election related duties, please do not hesitate to contact the Michigan Department of State's Bureau of Elections. We will be happy to assist in any way possible!

Mailing address: Michigan Department of State
Bureau of Elections
PO Box 20126
Lansing, MI 48901-0726

Phone: (517) 373-2540

Email: elections@michigan.gov

Fax: (517) 373-0941